

**Notice of Allowability****Application No.**

10/767,319

**Applicant(s)**

FACKLER ET AL.

**Examiner**

NEAL R. SEREBOFF

**Art Unit**

3626

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to supplemental amendment dated 12/19/2008.
2. ☒ The allowed claim(s) is/are 1,2,5-9,12-16 and 19-21.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☒ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.  
**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 20090107.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

/N. R. S./  
Examiner, Art Unit 3626

/C Luke Gilligan/  
Supervisory Patent Examiner, Art Unit 3626

***Examiner's Amendment***

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kelly Feimster on 1/7/2009.

The Application has been amended as follows:

Claim 8:

A computerized system for reducing the risk of adverse clinical events when administering multiple medications to a patient through a common attachment, comprising:

a receiving module that receives a selection of a designated location of a representation of at least a portion of a human body to initiate an attachment, the selection of the designated location causing a graphical indicia indicative of a location of the attachment on the patient to appear at the designated location;

a first associating module that associates a first medication order for a first medication with the attachment using the graphical indicia;

a second associating module that associates a second medication order for a second medication with the attachment using the graphical indicia;

a determining module that determines whether the first medication and the second medication are compatible with one another when the first medication and the second medication are administered through the attachment, if not, generating an alert; and

~~using a computer to display that displays~~ the first medication order and an indication of the location of the attachment on the patient in a tabular form.

Claim 15:

A computer-readable storage medium having computer executable instructions for performing a method, the method comprising:

*Allowable Subject Matter*

2. Claims 1, 2, 5 – 9, 12 – 16 and 19 – 21 are allowed.

*Reasons for Allowance*

3. The following is an examiner's statement of reasons for allowance:

As per claim 1, the primary reason for allowance is the recitation of the following limitations in the combination as recited and not found in the prior art:

receiving, via a hospital computing device, a selection of a designated location of a representation of at least a portion of a human body to initiate an attachment, the selection of the designated location causing a graphical indicia indicative of a location of the attachment on the patient to appear at the designated location;

associating, via the hospital computing device, a first medication order for a first medication with the first attachment using the graphical indicia;

associating, via the hospital computing device, a second medication order for a second medication with the attachment using the graphical indicia;

determining, via the hospital computing device, whether the first medication and the second medication are compatible with one another when the first medication and the second medication are administered through the attachment, if not, generating an alert;  
and

using the hospital computing device to display the first medication order and an indication of the location of the attachment on the patient in a tabular form.

As per claim 8, the primary reason for allowance is the recitation of the following limitations in the combination as recited and not found in the prior art:

a receiving module that receives a selection of a designated location of a representation of at least a portion of a human body to initiate an attachment, the selection of the designated location causing a graphical indicia indicative of a location of the attachment on the patient to appear at the designated location;

a first associating module that associates a first medication order for a first medication with the attachment using the graphical indicia;

a second associating module that associates a second medication order for a second medication with the attachment using the graphical indicia;

a determining module that determines whether the first medication and the second medication are compatible with one another when the first medication and the second medication are administered through the attachment, if not, generating an alert; and

using a computer to display the first medication order and an indication of the location of the attachment on the patient in a tabular form.

As per claim 15, the primary reason for allowance is the recitation of the following limitations in the combination as recited and not found in the prior art:

receiving a selection of a designated location of a representation of at least a portion of a human body to initiate an attachment, the selection of the designated location causing a graphical indicia indicative of a location of the attachment on the patient to appear at the designated location;

associating a first medication order for a first medication with attachment using the graphical indicia;

associating a second medication order for a second medication with the attachment using the graphical indicia;

determining whether the first medication and the second medication are compatible with one another when the first medication and the second medication are administered through the attachment, if not, generating an alert;

using a computer to display the first medication order and an indication of the location of the attachment on the patient in a tabular form.

In particular, the graphical, computer based process reduces the risk of adverse clinical events when administering multiple medications to a patient through a common attachment. The specific ordering of receiving a selection of a designated location of a representation of at least a portion of a human body to initiate an attachment, the selection of the designated location causing a graphical indicia indicative of a location of the attachment on the patient to appear at

the designated location along with determining whether the first medication and the second medication are compatible with one another when the first medication and the second medication are administered through the attachment, if not, generating an alert differs from the prior art.

In addition, a 35 U.S.C. 101 rejection of the now amended claim 15 and dependent claims 16 and 19 – 21 was not made. The determination was based upon the reasoning cited within Ex Parte Bo Li, Appeal 2008-1213 (BPAI 2008). Specifically:

In the analysis of *In re Nuijten*, 500 F.3d 1346 (Fed. Cir., 2007), the Federal Circuit considers the four statutory classes for a signal, and bases the determination of statutory subject matter on that basis. It has been the practice for a number of years that a "Beauregard Claim" of this nature be considered statutory at the USPTO as a product claim. (MPEP 2105.01, 1). Though not finally adjudicated, this practice is not inconsistent with *In re Nuijten*. (Ibid.). Further, the instant claim presents a number of software components, such as the claimed logic processing module, configuration file processing module, data organization module, and data display organization module, that are embodied upon a computer readable medium. This combination has been found statutory under the teachings of *In re Lowry*, 32 F.3d 1579 (Fed. Cir., 1994).

The closest prior art references are as follows:

De La Hueriga (2002/ 0038392) teaches describes a method for controlling IV medication delivery and monitoring (Abstract). The De La Hueriga reference does not teach that the first medication order is received through a designated location of a representation of at least a portion of a human body to initiate an attachment, the selection of the designated location causing a graphical indicia indicative of a location of the attachment on the patient to appear at the designated location.

Lewis et al., (2001/ 0041992) is directed to selecting an anatomic structure to access healthcare information (Abstract). While the Lewis reference discusses selecting an anatomic structure to

obtain treatment plans of healthcare services, which can be modified and ordered, the Lewis reference does not describe receiving a first medication order through a designated location of a representation of at least a portion of a human body to initiate an attachment, the selection of the designated location causing a graphical indicia indicative of a location of the attachment on the patient to appear at the designated location.

For the reasons stated above, the closest available prior art of record do not anticipate or otherwise render obvious each and every element of claims 1, 8 and 15. Therefore, claims 1, 2, 5 – 9, 12 – 16 and 19 – 21 are found to be allowable over the available prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

#### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Walker et al., (5,651,775) teaches a medication delivery and monitoring system

Eggert et al., (6,527,558) teaches an interactive education system

Tajima et al., (6,557,558) teaches a medical treatment apparatus

Ding (6,650,930) teaches a radiation dosing system

Balloni et al., (6,844,884) teaches a acquiring a graphic prescription from an imaging device

Ding (2002/ 0049362) teaches a radiation dosing system

Hickle et al., (2003/ 0135087) teaches a user interface for sedation and analgesia delivery

White et al., (2004/ 0176984) teaches a wireless communication system

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NEAL R. SEREBOFF whose telephone number is (571)270-1373. The examiner can normally be reached on Mon thru Thur from 7:30am to 5pm, with 1st Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Luke Gilligan can be reached on (571) 272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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/C Luke Gilligan/  
Supervisory Patent Examiner, Art Unit 3626